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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 4th December, 1961:—

BILL No. XXII OF 1961

A Bill further to amend the Drugs Act, 1940

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. (1) This Act may be called the Drugs (Amendment) Act, 1961. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In the Drugs Act, 1940 (hereinafter referred to as the principal Act), in the long title and first paragraph of the preamble, after the word “drugs”, the words “and cosmetics” shall be inserted. Amendment of long title and preamble.
3. In section 1 of the principal Act, in sub-section (1), after the word “Drugs”, the words “and Cosmetics” shall be inserted. Amendment of section 1.
4. In section 3 of the principal Act,—
(a) after clause (a), the following clause shall be inserted, namely:—
‘(aa) “cosmetic” means any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and includes any article intended for use as a component of cosmetic, but does not include soap;

(b) in clause (f)—

(i) after the words “any drug”, where they occur for the first and second time, the words “or cosmetic” shall be inserted;

(ii) for the words “or the packing of any drug”, the words “of any drug, or the packing of any drug or cosmetic,” shall be substituted.

Amendment
of section 6.

5. In section 6 of the principal Act,—

(a) in sub-section (1), in the proviso, after the words “any drug or class of drugs”, the words “or cosmetic or class of cosmetics” and after the words “such drug or class of drugs”, the words “or such cosmetic or class of cosmetics” shall be inserted;

(b) in sub-section (2), in clause (d), after the word “drugs”, the words “or cosmetics” shall be inserted.

Amendment
of section 8.

6. In section 8 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) For the purposes of this Chapter, the expression “standard quality” means—

(a) in relation to a drug, that the drug complies with the standard set out in the Schedule, and

(b) in relation to a cosmetic, that the cosmetic complies with such standard as may be prescribed.’

Insertion of
new section
9A.

7. After section 9 of the principal Act, the following section shall be inserted, namely:—

Misbranded
cosmetics.

“9A. For the purposes of this Chapter, a cosmetic shall be deemed to be misbranded—

(a) if it is an imitation of, or a substitute for, or resembles in a manner likely to deceive, another cosmetic; or

(b) if it purports to be the product of a place or country of which it is not truly a product; or

(c) if it contains a colour which is not prescribed; or

(d) if it is imported under a name which belongs to another cosmetic; or

(e) if it is not labelled in the prescribed manner; or

(f) if its label or container bears the name of an individual or company purporting to be the manufacturer or producer of the cosmetic which individual or company is fictitious or does not exist; or

(g) if the label or container bears any statement which is false or misleading in any particular."

8. In section 10 of the principal Act,—

Amendment
of section 10.

(a) in clause (a), clause (c) and clause (f), after the words "any drug", the words "or cosmetic" shall be inserted;

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) any misbranded drug or misbranded cosmetic;";

(c) after clause (e), the following clause shall be inserted, namely:—

"(ee) any cosmetic containing any ingredient which may render it unsafe or harmful for use under the directions indicated or recommended;".

9. In section 11 of the principal Act,—

Amendment
of section
11.

(a) in sub-section (1), after the word "drugs", in both the places where it occurs, the words "and cosmetics" shall be inserted;

(b) in sub-section (2), after the word "drug", in both the places where it occurs, the words "or cosmetic" shall be inserted.

10. In section 12 of the principal Act, in sub-section (2),—

Amendment
of section
12.

(a) in clause (a), after the words "classes of drugs", the words "or cosmetics or classes of cosmetics" shall be inserted;

(b) in clause (b), after the word "drug", the words "or cosmetic" shall be inserted;

(c) in clause (f), clause (h), clause (i), clause (j), clause (k) and clause (l), after the word "drugs", wherever it occurs, the words "or cosmetics" shall be inserted;

(d) in clause (o), after the words "class of drugs", the words "or cosmetic or class of cosmetics" shall be inserted.

11. In section 14 of the principal Act, after the word "drugs", the words "or cosmetics" shall be inserted.

Amendment
of section
14.

Amendment
of Section
16.

12. In section 16 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) For the purposes of this Chapter, the expression “standard quality” means—

(a) in relation to a drug, that the drug complies with the standard set out in the Schedule, and

(b) in relation to a cosmetic, that the cosmetic complies with such standard as may be prescribed.’

Insertion of
new section
17A.

13. After section 17 of the principal Act, the following section shall be inserted, namely:—

Misbranded
cosmetics.

“17A. For the purposes of this Chapter, a cosmetic shall be deemed to be misbranded—

(a) if it is an imitation of, or a substitute for, or resembles in a manner likely to deceive, another cosmetic; or

(b) if it purports to be the product of a place or country of which it is not truly a product;

(c) if it contains a colour which is not prescribed; or

(d) if it is sold, or offered or exposed for sale, under a name which belongs to another cosmetic; or

(e) if it is not labelled in the prescribed manner; or

(f) if its label or container bears the name of an individual or company purporting to be the manufacturer or producer of the cosmetic which individual or company is fictitious or does not exist; or

(g) if the label or container bears any statement which is false or misleading in any particular.”

Amendment
of section
18.

14. In section 18 of the principal Act,—

(a) in clause (a)—

(i) in sub-clause (i), after the words “any drug”, the words “or cosmetic” shall be inserted;

(ii) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) any misbranded drug or misbranded cosmetic;”;

(iii) for sub-clause (v), the following sub-clauses shall be substituted, namely:—

“(v) any cosmetic containing any ingredient which may render it unsafe or harmful for use under the directions indicated or recommended;

(vi) any drug or cosmetic in contravention of any of the provisions of this Chapter or any rule made thereunder.”;

(b) in clause (b) and clause (c), after the words “any drug”, the words “or cosmetic” shall be inserted.

15. In section 19, section 23, section 24, sub-section (1) and sub-section (4) of section 25, section 26, section 28 and section 29 of the principal Act, after the word “drug”, wherever it occurs, the words “or cosmetic” shall be inserted. Amendment of sections 19, 23, 24, 25, 26, 28 and 29.

16. In section 20 of the principal Act, for the words “class of drugs”, in both the places where they occur, the words “classes of drugs or such cosmetics or classes of cosmetics” shall be substituted. Amendment of section 20.

17. In section 21 of the principal Act,—

(a) in sub-section (2), for the words “class of drugs”, the words “classes of drugs or cosmetics or classes of cosmetics” shall be substituted;

Amendment of section 21.

(b) in sub-section (3), for the words “in the manufacture, import or sale of drugs”, the words “in the import, manufacture or sale of drugs or cosmetics” shall be substituted.

18. In section 22 of the principal Act, in sub-section (1),—

(a) in clause (a) and clause (b), after the words “any drug”, the words “or cosmetic” shall be inserted;

Amendment of section 22.

(b) in clause (c), after the word “drug”, wherever it occurs, the words “or cosmetic” shall be inserted.

19. After section 27 of the principal Act, the following shall be inserted, namely:—

Insertion of new section 27A.

“27A. Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale, or distributes any cosmetic in contravention of any of the provisions of this Chapter or any rule made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.”

Penalty for manufacture, sale, etc., of cosmetics in contravention of this Chapter.

20. In section 30 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 30.

“(1A) Whoever, having been convicted of an offence under section 27A is again convicted under that section, shall be punishable with imprisonment for a term which may extend to

two years, or with fine which may extend to one thousand rupees, or with both."

Amendment
of section
31.

21. In section 31 of the principal Act,—

(a) in sub-section (1), after the word "drug", the words "or cosmetic" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Without prejudice to the provisions contained in sub-section (1), where the Court is satisfied, on the application of an Inspector or otherwise and after such inquiry as may be necessary that the drug or cosmetic is not of standard quality or is a misbranded drug, or misbranded cosmetic, such drug or, as the case may be, such cosmetic shall be liable to confiscation."

Amendment
of section
33.

22. In section 33 of the principal Act, in sub-section (2),—

(a) in clause (a), clause (i) and clause (j), after the word "drugs", wherever it occurs, the words "or cosmetics", shall be inserted;

(b) in clause (c) and clause (p), after the word "drug", wherever it occurs, the words "or cosmetic" shall be inserted;

(c) in clause (e), after the words "class of drugs", the words "or of cosmetics or any specified cosmetic or class of cosmetics" shall be inserted;

(d) in clause (n), for the words "the drugs or class of drugs", the words "specify the drugs or classes of drugs or cosmetics or classes of cosmetics" shall be substituted;

(e) in clause (q), after the words "class of drugs", the words "or cosmetic or class of cosmetics" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The continual development of research and application of various organic synthetics and intermediates to the formulation of cosmetics make it necessary to ensure that nothing is used in cosmetics which may have deleterious effects on the health of the people. Contact dermatitis is one of the evil effects of using certain cosmetics. Preparations which appear to be among the most frequent causes of dermatitis are deodorants, pomades, lipsticks and nail polishes. Apart from dermatitis following the use of certain cosmetics, there is also the bigger risk of the cumulative toxicity of azo and other synthetic dyes used in the manufacture of lipsticks, etc. It appears that while in the well-organised and equipped units of the cosmetic industry there is a fair amount of control, there are many units dispersed throughout the country where even elementary precautions for testing raw materials and observing hygienic conditions during manufacture are not taken.

2. The question of regulating the manufacture of cosmetics was discussed at the last meeting of the Central Council of Health held at Jaipur in October, 1960. The consensus of opinion was that the manufacture of cosmetics should be regulated, if necessary by extending the provisions of the Drugs Act, 1940, to them. It is accordingly proposed to amend the Drugs Act, 1940 suitably so as to provide for regulation of the manufacture of cosmetics and prohibition of import and sale of sub-standard and misbranded cosmetics. The Bill is intended to achieve that object.

D. P. KARMARKAR.

NEW DELHI;

The 24th November, 1961.

FINANCIAL MEMORANDUM

It is proposed to amend the Drugs Act, 1940 so as to bring cosmetics within its purview. The intention, however, is normally to leave the control over the manufacture, sale, etc. of cosmetics to the State Governments and to introduce an enabling provision in the Act for the Centre to step in only when necessary or expedient. No separate additional staff, supervisory or on the analytical side otherwise than already provided for, is therefore proposed to be appointed in the near future and as such the proposed amendments will not involve any additional expenditure from the consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

By virtue of the amendments suggested in clauses 10 and 22 of the Bill, the powers of the Central Government to make rules in relation to drugs in respect of the matters specified in sub-section (1) of section 12 of the Drugs Act, 1940 and clauses (a), (b), (f), (h), (i), (j), (k), (l) and (o) of sub-section (2) of the said section and in sub-section (1) of section 33 and clauses (a), (c), (e), (i), (j), (n), (p) and (q), of sub-section (2) of the said section are proposed to be applied in relation to cosmetics. The matters in respect of which rules may be made are matters of procedure or detail. The delegation of legislative power is, therefore, of a normal character.

S. N. MUKERJEE,
Secretary.

